



Montoya, Darlene <dmontoya@nmag.gov>

RE: Request for Policies & Procedures Related to Officer-Involved Shooting and Other Use-of-Force Incidents

3 messages

Montoya, Darlene <dmontoya@nmag.gov>
To: dsoland@ramahnavajo.org

Mon, Dec 19, 2016 at 1:25 PM

Chief:

Attached please find correspondence from the Law Enforcement Board Subcommittee regarding the above-referenced matter.

If you have any questions or concerns, please do not hesitate to contact me. Thank you.

—
Darlene Montoya, Administrator
New Mexico Attorney General's Office
408 Galisteo Street
Santa Fe, New Mexico 87501
[\(505\) 490-4854](tel:5054904854)



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83K

Darren Soland <DSoland@ramahnavajo.org>
To: "Montoya, Darlene" <dmontoya@nmag.gov>
Cc: DJMaria <DJMaria@ramahnavajo.org>

Mon, Dec 19, 2016 at 2:28 PM

Good afternoon, Ramah Navajo Tribal Police Department does not have a policy / procedure manual; as we are a PL 93-638 contracted tribal law enforcement agency under the Indian Self Determination Act, we have chosen to provide services and use BIA Office of Justice Services as our umbrella oversight. Attached is the BIA law officers handbook, which is our policy manual.

We do have an independent Use of Force Form that I did create where the officer documents force used; should it be used to affect an arrest or for the officer to defend themselves.

Annually we do a use of force review based upon the use of force incidents during a calendar year.

All Officer Involved Shootings would be primarily investigated by the FBI. Administrative Inquiry / Investigation into the OIS would be done by BIA OJS OPSIA.

Thank you

Darren H. Soland

Chief of Police

Ramah Navajo Tribal Police Department

HCR 61, PO Box 13, Ramah NM 87321

[505-775-3226](tel:505-775-3226)

From: Montoya, Darlene [mailto:dmontoya@nmag.gov]

Sent: Monday, December 19, 2016 1:25 PM

To: Darren Soland <DSoland@ramahnavajo.org>

Subject: RE: Request for Policies & Procedures Related to Officer-Involved Shooting and Other Use-of-Force Incidents

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3 attachments



BIA OJS Third Edition LE Handbook 2015.pdf

7045K



RNPD OPR 3 Use of Force Report Form.doc

363K



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83K

Montoya, Darlene <dmontoya@nmag.gov>

To: Sonya Carrasco-Trujillo <scarrasco-trujillo@nmag.gov>

Tue, Dec 20, 2016 at 9:37 AM

—— Forwarded message ——

From: **Darren Soland** <DSoland@ramahnavajo.org>

Date: Mon, Dec 19, 2016 at 2:28 PM

Subject: RE: Request for Policies & Procedures Related to Officer-Involved Shooting and Other Use-of-Force Incidents

[Quoted text hidden]

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3 attachments



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CALEA Standard(s)--1.3.1; 1.3.2; 1.3.3; 1.3.4; 1.3.6; 1.3.7.

2-01 USE OF FORCE

POLICY

Based on the Fourth Amendment's "reasonableness" standard, OJS law enforcement and corrections officers are authorized to use the amount of force that is objectively reasonable in light of the facts and circumstances known to that officer at the time force is used. Officers may use force which is reasonable, necessary, and appropriate to lawfully and properly neutralize an unlawful assault against officers or other persons, to restore order, to overcome resistance by a person being taken into custody, to affect an arrest, to prevent injury to oneself or other persons, prevent destruction of property, and to prevent escape.

RULES AND PROCEDURES

2-01-01 GENERAL INFORMATION

A. Rationale for Use of Force.

1. Officers may be confronted with situations where control must be exercised to affect arrests, overcome physical resistance, neutralize assaults, restore order, prevent injury to oneself or others; prevent destruction of property, and to prevent escape. Control may be achieved through persuasion, verbal warnings, implied or threatened use of force, or by the use of physical force. There are varying degrees of physical force that may be used depending on the dynamics of the situation.
2. Officers must understand that the use of force in law enforcement is not a defensive act but that of offense. It is critical for the officer to be proactive and react to the threat of violence and not the actual violence itself. In force utilization, the officer should take immediate action to stop or control a subject's action or non-compliance thus employing an offensive tactic to gain control or compliance.

B. Objectively Reasonable Force

1. OJS policies are based on the United States Supreme Court decision in *Garner vs. Tennessee* and shall be consistent with the Supreme Court decision in *Graham vs. Connor* as a guideline for reasonable force.
2. The amount and type of force that would be considered rational and logical to an "objective" officer on the scene, supported by facts and circumstances known to an officer at the time force was used.
3. The "objective reasonableness" standard is the standard that directs all use of force applications by an officer. The standard of objectively reasonable set forth in the Fourth Amendment does not require that officers choose the least intrusive amount of force, only a reasonable one.
4. The "reasonableness" of a particular use of force must be judged from the perspective of "the reasonable officer" on the scene, rather than with the 20/20 vision of hindsight.



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2-01-02 OJS AUTHORIZATION TO USE FORCE

A. Deadly Force.

1. An officer may use deadly force to protect himself or others from what is reasonably believed to be an immediate threat of death or serious physical injury.
2. An officer may use deadly force to effect a capture or prevent an escape if the officer reasonably believes the suspect has committed a felony involving the use or threatened use of deadly force and the officer has probable cause to believe the suspect poses a significant threat of death or serious bodily injury to the officer or others if not immediately apprehended.

B. Other Use of Force

1. The use of force may be used by an officer in a manner which results in the officer choosing the force option, which in the officer's judgment, has the best chance of controlling the situation or reaching the desired legal objective, and immediately employing that option without attempting lesser amount of force.
2. Each situation is unique and officers are responsible for using the amount of force that is necessary, reasonable, and appropriate to reach the intended legal objective.
3. Officers are authorized to use force to restore/maintain order, prevent injury to persons or self, destruction of property, and to prevent escape.

C. Additional Criteria

1. Officers are not authorized to fire warning shots.
2. Officers will not discharge a firearm when it appears likely that an innocent person may be injured.
3. Officers will not discharge a firearm from a moving vehicle.
4. Officers will not fire upon a moving vehicle unless the occupant(s) of the vehicle are using, or attempting to use, deadly force against the officer or others and only to stop the assailant's threat.
5. Officers are authorized to shoot and kill an animal for:
 - a. Self-defense of the officer or another, or
 - b. When the animal is so badly injured that humanity requires its relief from further suffering.
 - c. Except for general maintenance, storage, or authorized training, officers will not draw or exhibit their firearms unless circumstances create strong reasonable cause to believe that it may be necessary to lawfully use the weapon in conformance with other sections of this directive.

D. Excessive Force.

The substantiated use of excessive force in any situation is not authorized, regardless of the provocation or action of the offender, and will result in disciplinary action, termination, and/or criminal prosecution.



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2-01-03 USE OF FORCE ELEMENTS

- A. There are three elements the U.S. Supreme Court has identified as critical in the determination of the “objective reasonableness” of force utilization. This standard asks whether the officer’s actions are objectively reasonable in light of the facts and circumstances confronting the officer and not whether the officer’s subjective intent or motive was evil or good.
- B. These elements are the reasonable officer’s perception of the situation (Officer Perception) and the officer’s perception of the suspect’s actions (Subject Action) which should determine the officer’s selected force response (Officer Response).
- C. It is important to recognize that “reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application. Any action by a suspect can lead to a range of reasonable responses based on the totality of the circumstances.

2-01-04 OFFICER PERCEPTIONS

- A. Ability/Capability
The ability-capability of a subject to carry out a threatened action. The subject must have the ability/capability to carry out the action or threat. There does not need to be any verbalization with an action to show ability or capability but the officer must however perceive the person insinuating the action or threat is capable. The mere presence of a weapon does not necessarily constitute intent but can definitely indicate a subject’s ability/capability.
- B. Opportunity
Indicates that the action or threat perceived by the officer is imminent or in the here and now, but not necessarily instantaneous. The subject must be in a position in which he/she can use his/her ability/capability to carry out the act or threat. The officer’s decision that an assailant has the opportunity is based on the officer’s perception of the assailant’s positioning, proximity, and availability.
- C. Intent
This is the mental state initiating an overt act (words or deeds) in the furtherance of a threat or action. Intent is initiating an overt act in furtherance of a crime or threat.

2-01-05 SUBJECT ACTIONS

- A. Compliant-Cooperative
This action represents the vast majority of officer/subject encounters. The likelihood of a physical response by the subject is minimal.
- B. Resistant-Passive
The subject exhibits the preliminary amount of noncompliance which requires some degree of physical contact by the officer in order to obtain compliance. The subject offers no physical or mechanical enhancement towards the resistance effort other than to stand motionless or remain seated.



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C. Resistant-Active

The scope and intensity of the subject's resistance has increased. The subject is exhibiting physical or mechanical defiance to the officer's control. The subject is using physical energy to establish defiance although directed away from the officer.

D. Assaultive-Physical Injury

The officer has the perception of an attack or the potential for such an attack on the officer or others. The officer makes the reasonable assessment that such actions by the subject would not result in death or serious physical injury to the officer or others.

E. Assaultive-Serious Physical Injury/Death

This noncompliance is the least encountered but poses the most serious threat to officer safety. The officer's objectively reasonable assessment is that such assaultive actions by the subject could result in death or serious physical injury to the officer or others.

2-01-06 OFFICER RESPONSES

A. Cooperative Control

1. This control includes methods to preserve officer safety and survival, including: officer presence, verbal commands, restraint applications, positioning strategies, etc. It is important to recognize that cooperative controls can be used at any time in addition to other identified tools.
2. Officers will conduct contacts with citizens in a manner that inspires respect and generates cooperation and approval. The manner and form in which an officer speaks to individuals can be an effective means of exerting a low amount of force to control the situation.
3. Verbal force may be in the form of advice, warning, persuasion, commands, or threats of higher amounts of force. Verbal force can be progressive in nature, depending on the circumstances, by changing the type of words or altering the tone or volume of the voice when giving instructions, commands, or direction.
4. Properly used, verbal force may negate the need for officers to resort to other forms of physical control or force.

B. Contact Control

1. When confronted with a subject demonstrating resistant behavior, the officer will use physical tactics to gain control and compliance. These tactics can be psychologically manipulative as well as physical, and can include additional verbal persuasion skills, relative positioning strategies, touch pressure points, and escort positions.
2. The majority of arrests made by officers require only this amount of force. The arrestee will be handcuffed, searched, and transported.



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3. In these situations there is neither resistance, nor the need to use force, other than some form of physical maneuvering, or guidance, as the prisoner is escorted from one location to another.

C. Compliance Techniques

1. When the subject becomes actively resistant, the officer may use physical control tactics. These tactics should be of sufficient force to overcome the active resistance of the subject and the officer should remain vigilant for more aggressive behavior from the subject.
2. When an officer is faced with an individual who refuses to be placed in custody or follow verbal commands or instructions, the officer may use authorized control and compliance techniques and holds which, in the officer's judgment, have the best chance of success. These techniques and holds may include deployment of an authorized intermediate force weapon; use of control holds, pain compliance or pressure point techniques; or other authorized compliance and control tactics.

D. Defensive Tactics

1. Defensive tactics are warranted when the subject attempts or achieves an assault on the officer or another person. The officer is justified in using defensive/offensive tactics designed to stop the subject's non-lethal assault on the officer or others, regain control, and assure continued compliance.
2. Personal Weapons. This use of unarmed force involves the use of personal weapons (i.e. fist, hand, elbow, foot, knee, etc.) The use of personal weapons can be used by officers to defend themselves against assault, or as a method of using physical force to gain control of the situation, when other means of force are inappropriate or ineffective.
3. Baton. Police officers will carry the law enforcement agency authorized baton:
 - a. Uniformed police officers will carry the authorized baton while on duty.
 - b. Officers will use batons only in accordance with current departmental training standards as approved by IPA.
 - c. The use of the baton is restricted to overcoming physical confrontations, or as a means of self-defense, in situations where other forms of force would be, or have been, inappropriate or ineffective.
 - d. Prior to being authorized to carry the baton, officers are required to successfully complete a training course taught by certified instructors. Re-certification in the use of the baton will occur annually.
 - e. When carried, the baton will be secured in a manner consistent with established uniform standards.
 - f. Use of other types of striking devices (i.e. saps, riot sticks, num-chucks, etc.) is strictly prohibited.



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E. Deadly Force

1. When the officer perceives that the subject of such force poses the potential for death or serious physical injury to the officer or to another person, immediate officer response must be used to stop the threat. These tactics could include the use of a firearm, intermediate weapon, or any other available item, including personal weapons. If the use of deadly force is objectively reasonable the implement used is of no consequence.
2. Officers will fire their weapons in a manner intended to stop and incapacitate an assailant from completing a potentially deadly use of force.

2-01-07 MEDICAL ASSISTANCE AND TRANSFER OF CUSTODY

- A. Following any reportable use of force, as soon as reasonably practical, officers will determine if anyone was injured and render medical aid consistent with training and request Emergency Medical Service (EMS) if necessary.
- B. Prior to transferring custody of a subject that force was used upon; OJS officers shall verbally notify the receiving agency or employee of:
 1. The type of force used,
 2. Any injuries sustained (real or alleged) and,
 3. Any medical aid / EMS rendered.

2-01-08 USE OF FORCE TRAINING

All division Associate Directors, Chiefs of Police, Special Agents in Charge, and Supervisory Correctional Specialists will ensure that all officers are issued this order and are thoroughly trained in its content prior to being authorized to carry a firearm or other intermediate weapon. Each officer will receive annual re-training on the OJS Use of Force policy.

2-01-09 USE OF FORCE REPORTING

- A. A supervisor or investigator will be immediately notified and the supervisor/investigator will ensure that a written incident report is completed and forwarded through the chain of command in the following situations:
 1. When a service firearm is discharged for other than training/qualification or authorized practice purposes.
 2. When an employee takes an action that results in, or is alleged to have resulted in, injury or death of another person.
 3. When a subject complains that an injury has been inflicted.
 4. When an employee applies force through the use of lethal or less-than-lethal weapons.
 5. When a vehicle pursuit or fleeing felon/pursuit roadblock has been initiated.



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- B. Supervisors will insure that all incident reports documenting the use of force are complete, to include the officer's actions, the suspect's actions, any injuries sustained, type of force used, the outcome of the use of force, etc.
- C. Administrative Leave
 - 1. When an officer's use of deadly force causes death or serious bodily injury, the OJS Manager will place the officer on administrative leave pending completion of all criminal investigative requirements.
 - 2. Once the investigation is complete and a determination is made concerning the disposition of the investigation, the Chief of Police, Special Agent in Charge, or Correctional officer in charge or designee will determine when the officer is ready to return to duty in coordination with IAD. The supervisor may require a "fitness for duty" evaluation by a mental health professional to aid him/her in this decision.
- D. The criminal investigative reports of incidents of use of force which resulted in death or serious physical injury to any person as a result of the officer's actions will be forwarded for review to the U.S. Attorney's Office to determine if criminal charges will be filed.
- E. OJS may conduct both an administrative and criminal investigation into the incident.
- F. Administrative review of use of force incidents
 - 1. All reported use of force incidents will be reviewed by Internal Affairs Division to determine whether:
 - a. OJS rules, policy, or operating procedures were violated.
 - b. The relevant policy was clear and effective to cover the situation.
 - c. OJS training is adequate.
 - 2. All findings of policy violations or training deficiencies will be reported to the appropriate unit for resolution and/or discipline.
 - 3. All use of force incident reports will be retained as required by law.
 - 4. There will be a regular review of use of force incidents by the Internal Affairs Division to ascertain training and policy needs.
 - 5. An annual summary report of use of force incidents will be prepared by the Internal Affairs Supervisor and forwarded through the chain-of-command to the OJS Deputy Bureau Director.



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NOTES



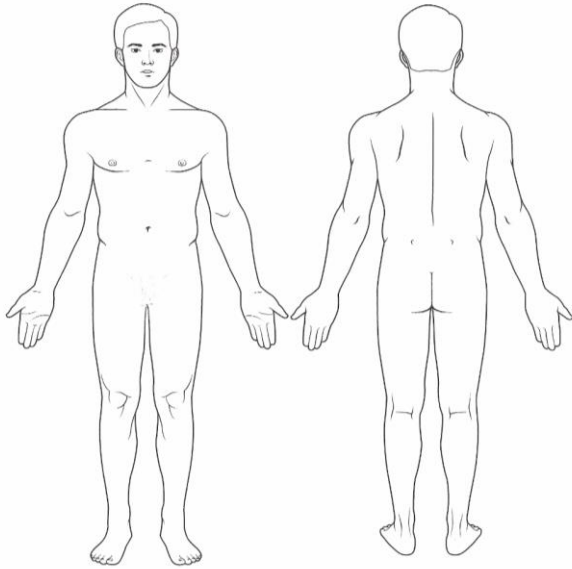
RAMAH NAVAJO POLICE DEPARTMENT

USE OF FORCE FORM



Incident Information		<input type="checkbox"/> Deadly Force	<input type="checkbox"/> Non-Deadly Force
Date: _____	Time: _____	Location: _____	
Case No: _____	Charges: _____		
Subject's Name: _____	Subject Arrested: <input type="checkbox"/> YES <input type="checkbox"/> NO		
Male <input type="checkbox"/> Female <input type="checkbox"/> Race: _____ Age: _____	Incident Supervisor: _____		
Primary Officer: _____	Lighting Conditions: _____		
Assisting Officer(s): _____	Weather Conditions: _____		
Reason for Contact (Violation): _____			
Prior to Use of Force: <input type="checkbox"/> Verbal Directions <input type="checkbox"/> Verbal Persuasion <input type="checkbox"/> Verbal Warnings <input type="checkbox"/> N/A – Explain			
Type of Force Used: (Explain Escalation of Force in Narrative Section)			
Empty Hand Techniques: <input type="checkbox"/> Leverage Takedown <input type="checkbox"/> Pressure Point <input type="checkbox"/> Impact Takedown			
Intermediate Weapons: (Mark all that apply)			
Weaponless Techniques (Intermediate Force): <input type="checkbox"/> Knee/Elbow Strikes <input type="checkbox"/> Hand Strikes <input type="checkbox"/> Kick			
<input type="checkbox"/> Chemical Agent: Type: _____			
<input type="checkbox"/> Electronic Control Weapon (Taser)		Impact Weapons – (Mark all that apply)	
Serial No: _____		<input type="checkbox"/> Baton	<input type="checkbox"/> Pepper Ball
Cartridge No: _____		<input type="checkbox"/> Sting Ball	<input type="checkbox"/> Bean Bag
Cartridge Deployed: <input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Rubber Buckshot	
Contact Stun Drive: <input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Foam Baton Round	
No of Cycles Used: _____		<input type="checkbox"/> Wooden Baton Round	
Duration of Cycles: _____		<input type="checkbox"/> Authorized Specialty Impact Munitions	
Distance in Feet: _____		<input type="checkbox"/> 40mm Specialty Impact Munitions	
Clothing Type: <input type="checkbox"/> Heavy <input type="checkbox"/> Light <input type="checkbox"/> None		<input type="checkbox"/> Other: _____	
Lethal Weapons: (Mark all that apply)			
<input type="checkbox"/> Sidearm; Serial No: _____		<input type="checkbox"/> AR-15; Serial No: _____	
<input type="checkbox"/> Shotgun; Serial No: _____		<input type="checkbox"/> Back-Up; Serial No: _____	
<input type="checkbox"/> Other Weapon Type: _____ and Serial No: _____			
Pit Maneuver: (Mark all that apply)			
<input type="checkbox"/> Below 35 M.P.H. (Less-than-lethal)		<input type="checkbox"/> Above 35 M.P.H. (Deadly Force)	
Suspect's Behavioral Cues: (Mark all that Apply)			
<input type="checkbox"/> Non-Cooperative Assailant: Resists Custody By:			
<input type="checkbox"/> Not Responsive to Directions		<input type="checkbox"/> Evasive to Questions	
<input type="checkbox"/> Verbal Resistance or Body Posture		<input type="checkbox"/> Pulling/Moving or Running Away	
<input type="checkbox"/> Unarmed Assailant: Resists Custody By:			
<input type="checkbox"/> Unarmed Threatening		<input type="checkbox"/> Closed The Distance	<input type="checkbox"/> Unarmed Attack
<input type="checkbox"/> Armed Assailant: Resists Custody By:			
<input type="checkbox"/> Armed Threatening		<input type="checkbox"/> Closed The Distance	<input type="checkbox"/> Armed Attack
Weapon Type: _____			

USE OF FORCE FORM



Upon completion of this report, print a copy and mark location(s) of impacts, strikes, probes and/or drive-stun contact points or other injuries sustained in the incident, with an "X" on the diagram below.

Photos taken of any injuries or marks on subject?	No
Photos taken of probe/drive stun contact points after removal of probes:	No
Probes Removed at Scene:	No
Probes Removed by: Name:	Other
EMS Requested by Officer:	No
EMS Requested by Subject:	No
Subject Transported by EMS:	No

NARRATIVE:

USE OF FORCE FORM

Investigating Officer:			
Reporting Officer:		District:	
Recordings Available?	Audio: YES <input type="checkbox"/> NO <input type="checkbox"/>	Video: YES <input type="checkbox"/> NO <input type="checkbox"/>	
If recordings not available, explain why:			
Reporting Officer's Signature:		Date:	
Supervisor Review:			
Reviewing Supervisor's Name:			
Reviewed recordings?	Audio: YES <input type="checkbox"/> NO <input type="checkbox"/>	Video: YES <input type="checkbox"/> NO <input type="checkbox"/>	
Is follow-up action necessary?	YES <input type="checkbox"/> NO <input type="checkbox"/>		
Reviewing Supervisor Signature:		Date:	
Lieutenant:			
Reviewing Lieutenant's Name:			
Lieutenant Signature:		Date:	
District Commander:			
Reviewing District Commander Name:			
Was use of force reasonable and necessary?		YES <input type="checkbox"/> NO <input type="checkbox"/>	
Comments:			
District Commander Signature:		Date:	

Forwarded to Standards Bureau on: Date: